

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: MARCH 21, 2007**  
**DEPARTMENT: PLANNING AND DEVELOPMENT**  
**ITEM DESCRIPTION: ABEYANCE - VAR-17244 - APPLICANT/OWNER: TOUSA HOMES, INC.**

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***THIS ITEM WAS HELD IN ABEYANCE FROM THE FEBRUARY 21, 2007 CITY COUNCIL MEETING AT THE REQUEST OF COUNCILMAN ROSS.***

**\*\* CONDITIONS \*\***

Staff recommends DENIAL. The Planning Commission (5-0 vote) recommends APPROVAL, subject to:

**Planning and Development**

1. Minimum lot size of 16,000 square feet.
2. Conformance to the Conditions of Approval for Rezoning (ZON-17242) and Site Development Plan Review (SDR-17247), if approved.
3. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

Request for a Variance to allow a residential planned development on 2.86 acres where five acres is the minimum required.

The proposed development is located on 2.86 gross acres. Per Title 19.06.040 a Residential Planned Development shall be located on a minimum of five acres. The proposed location is only 57 percent of the required area. This is a 43 percent deviation from Title 19.06.040 standards. The proposed deviation is considered a self-imposed hardship as it is the applicant's choice to rezone the property to accommodate the proposed development; therefore, denial of this request is recommended.

**BACKGROUND INFORMATION**

<i><b>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</b></i>	
12/21/06	<p>The Planning Commission recommended approval of companion items ZON-17242 and SDR-17247 concurrently with this application.</p> <p>The Planning Commission voted 5-0 to recommend APPROVAL (PC Agenda Item #28/ng).</p>
<i><b>Related Building Permits/Business Licenses</b></i>	
There are no permits or licenses related to this development.	
<i><b>Pre-Application Meeting</b></i>	
09/15/06	A pre-application meeting was held. It was noted that the site was located in the Rural Preservation Overlay District Buffer. The applicant stated that these would be a mix of one and two-story homes and that the cul-de-sac would align with the western portion that is already developed.
<i><b>Neighborhood Meeting</b></i>	
A neighborhood meeting is not required, nor was one held.	

<i><b>Details of Application Request</b></i>	
<i><b>Site Area</b></i>	
Gross Acres	2.86
Net Acres	2.26

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Single-family Residential	L (Low Density Residential)	R-E (Residence Estates)
North	Single-family Residential	L (Low Density Residential)	R-E (Residence Estates)
South	Undeveloped	L (Low Density Residential)	R-E (Residence Estates)

East	Single-family Residential	ML (Medium Low Density Residential)	R-1 (Single-family Residential)
West	Single-family Residential	L (Low Density Residential)	R-E (Residence Estates)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Area Plan</b>		X	
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Purpose and Overlay Districts</b>			
R-PD (Residential Planned Development) District	X		N
<b>Trails</b>		X	Y
<b>Rural Preservation Overlay District (Buffer)</b>	X		Y
<b>Development Impact Notification Assessment</b>		X	Y
<b>Project of Regional Significance</b>		X	Y

## DEVELOPMENT STANDARDS

*Per Title 19.06 the following Development Standards apply:*

<i>Standard</i>	<i>Provided</i>
Min. Lot Size	16,030 SF
Min. Lot Width	91.79 Feet
Min. Setbacks <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Corner</li> <li>• Rear</li> </ul>	20 Feet 10 Feet 15 Feet 25 Feet
Min. Distance Between Buildings	20 Feet
Max. Building Height	29.5 Feet

<i>Existing Zoning</i>	<i>Permitted Density</i>	<i>Units Allowed</i>	<i>Proposed Zoning</i>	<i>Permitted Density</i>	<i>General Plan</i>	<i>Permitted Density</i>
R-E (Residence Estates)	2 Units Per Acre	Seven  (Only Five are Proposed)	R-PD2 (Residential Planned Development – 2 Units Per Acre)	2.49 Units Per Acre	L (Low Density Residential)	5.49 Units Per Acre

<b><i>Open Space</i></b>
Per Title 19.06.040 Residential Planned Developments with less than 12 dwelling units are not required to provide open space. This development proposes five-lots and open space is not required. It is noted that the applicant is providing a six-foot streetscape area along Bradley Road (Common Lot A) that includes landscaping that meets Code requirements. The applicant is requesting a waiver of the streetscape requirements along Deer Springs Way.

*Pursuant to Title 19.10, the following parking standards apply:*

<b><i>Parking Requirement</i></b>
The project provides a minimum of two parking spaces per dwelling unit. Each unit proposes to have a minimum of a two car garage, while most units include a three car garage. This meets Title 19.10 parking requirements.

## **ANALYSIS**

The proposed development is located on 2.86 gross acres. Per Title 19.06.040 a Residential Planned Development shall be located on a minimum of five acres. The proposed location is only 57 percent of the required area. This is a 43 percent deviation from Title 19.06.040 standards.

Per Title 19.06.040 for the R-PD (Residential Planned Development) District the minimum site area that is eligible for rezoning to the R-PD (Residential Planned Development) zoning district is five acres. Any additional tract which contains less than the minimum site area, but which is contiguous to property previously zoned R-PD (Residential Planned Development), may also be zoned R-PD (Residential Planned Development) by the City Council if it otherwise qualifies for the R-PD (Residential Planned Development) zoning designation. Both such properties must be owned by or be under the control of the same property owner. This particular development is an infill parcel. The adjacent parcels are zoned R-E (Residence Estates).

The site does not meet the intent of the R-PD (Residential Planned Development) District as defined in Title 19.06.040. The proposed deviation is considered a self-imposed hardship as it is the applicant's choice to rezone the property to accommodate the proposed development; therefore, denial of this request is recommended.

## **FINDINGS**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature."

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship through requesting a zoning district that does not meet Code requirements. Alternative zoning would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

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**ASSEMBLY DISTRICT** 13

**SENATE DISTRICT** 9

**NOTICES MAILED** 153 by City Clerk

**APPROVALS** 0

**PROTESTS** 0